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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

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7 UNITED STATES OF AMERICA,

8 Plaintiff(s),

9 v.

10 DOUGLAS HAIG,

11 Defendant(s).

Case No. 2:18-CR-256 JCM (VCF)

ORDER

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13 Presently before the court is the matter of *United States v. Haig*, case number 2:18-cr-  
14 00256-JCM-VCF. Defendant Douglas Haig has filed a “motion to preclude irrelevant and unduly  
15 prejudicial witness testimony at sentencing.” (ECF No. 126). The government filed a response  
16 (ECF No. 127), to which Haig replied (ECF No. 128).

17 Haig contends that the government should be precluded from introducing evidence from  
18 witnesses relating to Steven Paddock’s October 2017 mass shooting in Las Vegas, Nevada (“mass  
19 shooting”). (ECF No. 126). In reliance on the “exclusionary principles” of Federal Rule of  
20 Evidence 403, Haig argues that “[w]itness testimony regarding the victim impact of Paddock’s  
21 unprecedented and inflammatory criminal conduct in Las Vegas, Nevada is irrelevant to the  
22 licensing violation to which Mr. Haig pled guilty.” *Id.*

23 The government argues in response that it does not intend to call any victims of the mass  
24 shooting as witnesses at the sentencing hearing. (ECF No. 127). Further, the government argues  
25 that “it is entitled to present at sentencing the nature and circumstances of Haig’s offense,” to  
26 include “his promotion and distribution-for-profit of dangerous, destructive, military-style  
27 ammunition” and “how his criminal conduct may have enabled or contributed to the crimes of  
28 others, such as the person who perpetrated the [mass shooting].” *Id.* The government also

1 contends that Haig’s motion erroneously applies Federal Rule of Evidence 403 to exclude evidence  
2 from a sentencing hearing. *Id.*

3 The Federal Rules of Evidence do not apply at a sentencing hearing. Fed. R. Evid.  
4 1101(d)(3). “[A] sentencing judge may appropriately conduct an inquiry broad in scope, largely  
5 unlimited either as to the kind of information he may consider, or the source from which it may  
6 come.” *Nichols v. United States*, 511 U.S. 738, 747 (1994) (citation and internal quotation marks  
7 omitted). By statute, there is “[n]o limitation ... on the information concerning the background,  
8 character, and conduct of a person convicted of an offense which a court of the United States may  
9 receive and consider for the purpose of imposing an appropriate sentence.” 18 U.S.C. § 3661.  
10 Further, the Federal Rules of Criminal Procedure provide that the presentence report must contain  
11 “information that assesses any financial, social, psychological, and medical impact *on any victim*.”  
12 Fed. R. Crim. P. 32(d)(2)(B) (emphasis added).

13 The Supreme Court has stated that, “[i]n discharging his duty of imposing a proper  
14 sentence, the sentencing judge is authorized, if not required, to consider all of the mitigating and  
15 aggravating circumstances involved in the crime.” *Williams v. Oklahoma*, 358 U.S. 576, 585  
16 (1959). The defendant may object to any matter that is untrue or involves a violation of the  
17 defendant's constitutional rights. *United States v. Tucker*, 404 U.S. 443, 447–49 (1972).

18 At sentencing, the court has near unfettered discretion to inquire into the circumstances  
19 surrounding Haig’s crime. Haig has cited no authority to the contrary, as the court is unpersuaded  
20 that the “exclusionary principles” of Rule 403 govern its inquiry at sentencing. *See* Fed. R. Evid.  
21 1101(d)(3) (“These rules—except for those on privilege—do not apply to the following: ... (3)  
22 miscellaneous proceedings such as: ... sentencing; ....”). Further, the court is required to consider  
23 the “nature and circumstances of the offense and the history and characteristics of the defendant”  
24 at sentencing. 18 U.S.C. 3553(a)(1).

25 The court will therefore deny Haig’s motion. Haig reserves the right to object to any  
26 evidence raised at the sentencing hearing that is untrue or involves a violation of his constitutional  
27 rights. *See Tucker*, 404 U.S. at 447–49.

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DATED March 5, 2020.

James C. Mahan  
UNITED STATES DISTRICT JUDGE